

REMARKS

The Examiner has stated that the species of Claims 1, 6, and 11 are patentably distinct species of the invention and has required election of one of these species.

Applicant has amended Claims 1 and 6.

In response to the Election Requirement, Applicant elects Species 3, Claims 11 - 15, with traverse.

Applicant traverses the requirement for election because the reasons, as provided by the Examiner in the Office Action, alone are not sufficient to establish a proper requirement for restriction. The Manual of Patent Examining Procedure (MPEP) clarifies that the requirements that must be shown for a Requirement for Election of Species are the same as the requirements for a valid Restriction Requirement. MPEP § 809.02(a). There are two criteria listed in the MPEP, specifically under MPEP §803, for properly making a requirement to restrict (emphasis added):

(A) The inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is not required (see MPEP §803.02, §806.04(a)-(j), §808.01(a) and §808.02).

It is further noted "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP §803 (emphasis added).

Applicant concedes that the Examiner has properly provided Applicant with distinctions between the above-identified groups of claims, satisfying the first criterion under

MPEP 803. However, Applicant's traverse is based on the Examiner's omission of support for a requirement for restriction under the second criterion. There is no evidence in the present Office Action to support a showing of serious burden in performing a search and examination of Applicant's claimed invention

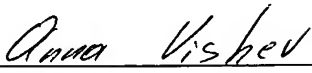
Applicant respectfully asserts that the embodiments of amended Claim 1 and its dependent Claims 2-5 have equivalent structures to amended Claim 6 and its dependent Claims 7-10, which are equivalent to Claim 11 and its dependent Claims 12-15. The clutches disclosed in the embodiments of Claims 1-5, 6-10, and 11-15 are equivalent in all respects except for the manner in which the solenoid applies its force to the internal gear. The electromotive force from the solenoid may cause the internal gear to be fixed (as in Claim 1) or freely rotatable (as in Claim 6), or it may be undefined (as in Claim 12). One of ordinary skill in the art would understand that Claims 1, 6, and 11 are equivalent mechanisms that may be used in the electromagnetic clutch as claimed. Therefore, there is no undue search burden and the Election Requirement should be withdrawn with respect to Claims 1-15.

Should the requirement for election be made final, the Examiner is respectfully requested to state on the record that the claims in each group are patentable (novel and nonobvious) over each other.

The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicant petitions for that extension of time required to make this response timely. Kindly charge any additional fee, or credit any surplus, to Deposit Account No. 50-0675, Order No. 051319-78.

Respectfully submitted,

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